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ABSTRACT

The paper outlines the position of a task force regarding the effects of Section 504 of the Rehabilitation Act of 1973 (which prohibits discrimination in federal programs on the basis of disability) on physical education and athletics. Impact of the legislation on four topics is detailed: physical education instructional programs, interscholastic/intercollegiate sport programs, intramural programs, and personnel preparation programs. Other topics addressed include the application of the least restrictive environment principle (most normal/integrated setting), total integration, continuum of alternative placements, program accessibility, scholarships, and auxiliary aids and services. (CL)

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IMPLICATIONS OF SECTION 504 OF THE REHABILITATION ACT AS RELATED TO PHYSICAL EDUCATION INSTRUCTIONAL, PERSONNEL PREPARATION, INTRAMURAL, AND INTERSCHOLASTIC/INTERCOLLEGIATE SPORT PROGRAMS

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Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) guarantees that no individual shall be excluded from, denied benefits of, or discriminated against in any program sponsored by a recipient of federal funds. Special emphasis and attention are given to physical education and athletics in rules and regulations governing administration and implementation of Section 504. All aspects of physical education and athletics are covered--instructional, personnel preparation, intramural, and interscholastic/intercollegiate sport programs.

Through the initiative and under the direction of Joseph P. Winnick (State University College at Brockport, New York) the Brockport Invitational Task Force met in Brockport, New York, and developed materials that have resulted in this Practical Pointer. This position paper includes interpretations obtained and made by members of the Task Force. Although some interpretations were obtained from The Office of Civil Rights, they are not and should not be considered official policy statements or interpretations of The Office of Civil Rights.

Contents of this Practical Pointer should be extremely valuable to teachers, coaches, administrators, students, and athletes in being better informed of their responsibilities and rights as related to physical education and athletics and as delineated in this historic civil rights legislation. For their expertise, time, effort, and commitment which have resulted in this valuable professional contribution, thanks and appreciation are extended individually and collectively to members of the Brockport Invitational Task Force.

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Overview

Enactment of the Rehabilitation Act of 1973--P.L. 93-112, Title V, Section 504--is having a profound impact on instructional, personnel preparation and extra-curricular activities involving individuals with handicapping conditions. This legislation mandates that individuals with handicapping conditions be included in and receive benefits from all programs and services sponsored by agencies receiving federal funds. Section 504 provides that...

> "...No otherwise qualified handicapped individual...shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." (1)

Implementing Section 504 requires innovative approaches in physical education instructional programs, necessitates changes in procedures employed by personnel who conduct intramural, extramural, and interscholastic/intercollegiate sport programs and has implications for training personnel who conduct such programs. This position paper is intended to assist personnel in conducting and evaluating such programs so they will be in compliance with Section 504. (2)

Organization of this Position Paper

Section 504 serves to prevent discrimination against and exclusion of qualified individuals with handicapping conditions who wish to participate in and benefit from services which are made available to persons without handicapping conditions. This position paper is organized around two concepts which emanate from the law...

...preventing denial of benefits, and

...eliminating exclusion from programs.

Specific details of these two concepts are applied to...

...physical education instructional programs,

...interscholastic/intercollegiate sport porgrams,

...intramural programs, and

...personnel preparation programs.

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[1] Federal Register, Vol. 42, No. 86, May 4, 1977, p. 22676.

[2] This position paper draws from rules and regulations developed by the Department of Health, Education, and Welfare (Federal Register, Vol. 42, No. 86, May 4, 1977). Other federal agencies are developing their own rules and regulations for implementing Section 504 which continue to be published in the Federal Register.

Defining Handicapping Conditions

Handicap is defined in Section 504 Rules and Regulations (Section 84.3) as follows--

- Handicapped person means any person who (1) has a physical or mental impairment which substantially limits one or more major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment.

- Physical or mental impairment means (1) physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

- Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

- Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

- Is regarded as having an impairment means (1) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (2) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (3) has none of the impairments defined above but is treated by a recipient as having such an impairment. (3)

Preventing Denial of Program Benefits

One intent of Section 504 is to insure that individuals with handicapping conditions receive intended benefits of all educational programs and extracurricular activities. At least two specific conditions are prerequisites to delivering

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[3]The Attorney General of the United States has rendered the legal opinion that drug addicts and alcoholics are considered handicapped for programs governed by Section 504. All three portions of the definition of handicapped person apply to and protect drug addicts and alcoholics from discrimination in programs and activities sponsored or conducted by recipients of federal funds. However, if continued use of drugs or alcohol affects an individual's ability to fulfill his/her responsibilities, protection of Section 504 does not apply.

services which guarantee benefits in physical education instructional programs, personnel preparation programs, interscholastic/intercollegiate sport programs, and intramural program to individuals with handicapping conditions. Programs must be as equally effective as those provided individuals without handicapping conditions, and must be conducted in the most normal settings feasible/most integrated settings possible. (4)

Equally Effective Benefits

Section 504 rules and regulations indicate that to be equally effective, programs must afford individuals with handicapping conditions equal opportunities to attain the same results, gain the same benefits, or reach the same levels of achievement as peers without handicapping conditions. To be equally effective, however, an aid, benefit, or service need not produce equal results; each must merely afford equal opportunities to achieve equal results. This process is intended to encompass the concept of equivalent as opposed to identical services. It also acknowleges that to meet specific needs of individuals with handicapping conditions to the same extents corresponding needs of persons without handicapping conditions are met, adjustments or accommodations to regular programs or provisions for different programs may sometimes be necessary. Equal treatment and equal opportunity, thus, are not synonymous. In fact, equal treatment of individuals with handicapping conditions can in and of itself be discriminatory. Equality of opportunities for individuals with handicapping conditions is the key consideration in this process.

In reaching decisions regarding equally effective programs, (5) Supreme Court Chief Justice Warren Burger wrote in respone to a unanimous Supreme Court--

> "Congress has now provided that tests or criteria for employment may not provide equality of opportunity merely in the sense of the fabled offer of milk to the stork /in a shallow saucer/ and the fox /in a long-necked pitcher/. On the contrary, Congress has now required that the posture and condition of job seekers be taken into account. It has--to resort to the fable--required that the vessel in which the milk is preferred be one all seekers can use. (6)

Equally effective services should provide accommodations as needed for individuals with handicapping conditions to attain maximum benefits from services, and implies compensatory aids, services, or adjustments in regular programs. Such

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[4]Interpretations of Section 504 Rules and Regulations by their developers indicate that although terminology is different, basic concepts included in most normal settings feasible/most integrated settings possible and least restrictive environment (The Education for All Handicapped Children Act--P.L. 94-142) are identical.

[5]Lloyd vs. Regional Transportation Authority /548 F 2d 1277, 1284 (7 cir. 1977)/, Lau vs. Nichol /414 U.S. 563 (1974)/, Briggs vs. Duke Power Co. /401 U.S. 424, 431, (1971)/.

[6]Briggs vs. Duke Power Company /401, U.S. 424,431, (1971)/ invoking Aesop's Fable of The Stork and The Fox.

accommodations afford individuals with handicapping conditions equal opportunities to achieve equal results. Handicapping conditions should be taken into account in manners that maximize program benefits in physical education instructional, intramural, interscholastic/intercollegiate sport, and personnel preparation programs involving individuals with handicapping conditions. In each of these program categories, the concept of equally effective may differ. In physical education instructional programs, individualizing instruction may be the instrument for providing equally effective services; in intramural and interscholastic/ intercollegiate sport programs, the approach may be to accommodate expressed interests and ability levels; in personnel preparation programs accommodations may occur in the form of aids, tutors, and/or modifications of curricula.

Equally effective services also include compensatory considerations to reduce initial discrepancies in abilities when persons with and without handicapping conditions are compared at inceptions of programs. In this way more equitable results are possible for individuals with handicapping conditions. When compared with programs for persons without handicapping conditions, equally effective instruction in and/or implementation of intramural activities, interscholastic/ intercollegiate competitions, physical education instructional, and personnel preparation programs involving individuals with handicapping conditions must give special considerations to, but not be limited to, finances, transportation, facilities, aids, and personnel training.

- Physical Education Instructional Programs. While a child without a handicapping condition may be able to cover a unit of motor skill instruction in two weeks and have eighty-five percent mastery of skills covered, the same schedule for a child with a neurological disorder might leave that child unprepared for the next sequential unit of instruction. If, however, this child with a handicapping condition is provided an extra week of instruction with additional assistance through peer tutoring in the first unit, this adjustment in managing instruction may provide this child with a neurological disorder greater opportunities to achieve results obtained by a child without a handicapping condition.

- Intramural Activities. A recipient of federal funds offering basketball to the general student population must provide wheelchair basketball for students confined to wheelchairs when a need exists. Only providing opportunities for students with handicapping conditions to participate in intramural activities conducted for students without handicapping conditions denies individuals with handicapping conditions opportunities to derive the same benefits as those gained by persons without handicapping conditions.

- Interscholastic/Intercollegiate Sport Programs. Coaching staffs and athletic trainers should receive specialized education so they are qualified to work with athletes possessing handicapping conditions. This enhances equally effective services in both regular and special interscholastic/intercollegiate sport programs involving athletes with handicapping conditions.

- Facilities. Section 504 does not require creating and maintaining separate facilities, but rather, insuring modifications and adaptations to existing facilities so that individuals with handicapping conditions have equally effective opportunities and benefits as able-bodied participants.

For individuals with handicapping conditions, a swimming area may need improved access to shower and locker rooms, enlarged shallow water areas for training, adjusted schedules to increase access times for practice, and appropriate ways for individuals to get into and out of the water.

. Professional Preparation--

--If an applicant for teacher preparation in physical education scores poorly on a scholastic aptitude test because of dyslexia, this applicant should be given opportunities to demonstrate intellectual abilities through modified procedures minimally affected by this learning disability. The fundamental consideration in admitting an applicant into the program should be potential for benefiting from the professional training program and for becoming an effective physical education teacher. Once admitted into the professional preparation program, assessment of progress should be modified so as to evaluate teaching skills and abilities, not effects of the dyslexic condition. Upon graduation and employment as a physical education teacher, the individual should be judged on effectiveness in producing desirable changes in students. Accommodations should be made in responsibilities so as to avoid duties involving tabulations and other assignments that put the individual at a disadvantage because of the learning disability. (7)

--The quality of educational services provided students with handicapping conditions must equal that of services provided students without handicapping conditions; teachers of students with handicapping conditions must be competent or provide instruction to individuals with handicapping conditions.

--A college/university must ensure that discrimination on the basis of handicapping conditions does not occur in connection with teaching assignments of student teachers in elementary or secondary schools not operated by the college/university. Under as a whole wording, a college/university could continue to use elementary or secondary school systems that discriminate if, and only if, the student teaching program, when viewed in its entirety, offers student teachers with handicapping conditions the same range and quality of choices in student teaching assignments afforded students without handicapping conditions. (8)

--Modifications of accommodations in teacher preparation programs may include---changes in lengths of time permitted for completing degree requirements, substitutions of specific courses required for completing degree requirements, and adapting ways in which specific courses are conducted. (9)

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[7] In Davis vs Southeastern Community College the Supreme Court ruled that educational institutions do not need to "have or to effect substantial modifications of standards to accommodate the handicapped" and may impose "legitimate qualifications for some types of programs." Generally interpretations of this decision indicate that fundamental approaches of Section 504 have been little affected by the Supreme Court; if anything, otherwise qualified has been clarified.

[8] Federal Register. Vol. 42, No. 86, May 4, 1977, p. 22692.

9 Ibid. p. 22684

--Academic requirements a recipient of federal funds can demonstrate essential to the program of instruction being pursued by a given student or to any directly related licensing requirements are not regarded as discriminatory. (10)

Most Normal/Integrated Settings

To enhance attaining optimal program benefits, Section 504 clearly intends that agencies responsible for providing services to participants with handicapping conditions offer such services in most normal/integrated settings possible. A program is not equally effective if it results in individuals with handicapping conditions being indiscriminantly isolated or segregated. Some restrictions to avoid in conducting programs involving participants with handicapping conditions include...

...separating individuals with handicapping conditions categorically from individuals without such conditions;

...removing individuals with handicapping conditions inappropriately from the community or immediate environment; and

...placing individuals with handicapping conditions indiscriminately into special and/or segregated programs and activities.

Although special services may be required in some instances, providing separate or different services unnecessarily and/or categorically is discriminatory. Congressional testimony about Section 504 raised questions as to why personnel delivering services should not explain reasons that individuals with handicapping conditions cannot participate with individuals without handicapping conditions in instructional, personnel preparation, interscholastic/intercollegiate sport, and intramural programs.

Every individual with a handicapping condition is entitled to participate in programs and activities based on application of the Constitutional principle of least restrictive alternative requiring...

...continuum of appropriate alternative placements;

...justification by a recipient agency as to why individuals with handicapping conditions must be moved to more restrictive and less integrated settings;

...movement of participants in the direction of less restrictive and more integrated settings;

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[10] Ibid. p. 22684.

...placements based on individual abilities, disabilities, and personal needs--not categorical generalizations or labeling processes--at any step on the continuum;

...individuals with and without handicapping conditions to participate together to maximum degrees possible;

...consideration of the proximity of alternate settings to a participant's home; and

...prohibition of different or separate services to individuals with handicapping conditions from services provided persons without handicapping conditions, unless such actions are necessary to provide qualified individuals possessing handicapping conditions with services effective as those provided persons without handicapping conditions.

Total Integration

To maximum degrees possible, individuals with and without handicapping conditions are to participate together in interscholastic/intercollegiate and intramural sports, and in instructional and personnel preparation programs in physical education.

- Single leg below-knee amputees with prosthetic devices can and legally should be provided opportunities to play on interscholastic football teams. Recent rulings of the National Federation of State High School Associations permit use of below-knee prosthetic devices in football if they create no more dangers or safety hazards than an individual's natural limb. (11)

- Interscholastic wrestling rules require use of the finger touch method in the neutral position with initial contact being made from the front in matches involving a sight handicapped wrestler. Contact must be maintained until a break for a takedown is made; initial movement on the break must be forward.

- No restrictions exist in wrestling concerning use of artificial limbs on upper or or lower parts of the body. Any artificial limb approved through a state high school athletics/activities association office can be used in a wrestling contest. If a contestant wears an artificial limb, he must weight in with the limb which may have some effect on his total body weight.

- Interscholastic track and field and cross country rules permit a visually impaired athlete to make physical contact with a teammate for the purpose of giving direction only, provided they do not impede or interfere with any other competitor.

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[11] Opinions rendered by personnel from the Office of Civil Rights indicate that exclusions of above knee, hand, and arm prosthetic devices from this 1978 interscholastic football rule change are discriminatory.

Continuum of Alternative Placements

A recipient shall establish a continuum of alternative placements so that individuals with and without handicapping conditions can be integrated in all activities to maximum degrees possible. In addition to totally integrated instruction in regular classes, instruction in special classes and special schools, home instruction, and instruction in hospitals and institutions, the required continuum of alternative placements must include provisions for supplementary services such as resource rooms and/or itinerant instruction in conjunction with regular class placements. For some individuals, an ideal situation can be a combination which includes participation in some activities in totally integrated settings, and participation in other activities in totally segregated settings.

- In physical education it is possible to use dual, combined, or flexible scheduling patterns in which a student participates in an integrated block program for some activities and in a segregated class for other activities. Placement of an individual is determined on the basis of his/her potential to have safe, successful, and personally satisfying experiences.

- Wheelchair intramural or recreational activities may include persons with and without handicapping conditions participating together. For example, an all comers wheelchair tennis tournament in which players with and without handicapping conditions compete in wheelchairs is sponsored by the Los Angeles (California) Parks and Recreation Department. In this example, an activity which has been designed for individuals with handicapping conditions is organized so that persons without handicapping conditions can participate with those possessing handicapping conditions.

Separate Programs or Activities

A recipient of federal funds may offer students with handicapping conditions programs and activities that are separate or different only if (1) the recipient operates programs and activities in the most normal and appropriate settings, (2) qualified students with handicapping conditions are not denied opportunities to participate in programs and activities that are not separate or different, (3) qualified students with handicapping conditons are able to participate in one or more regular programs and activities, and (4) students with handicapping conditions are appropriately assigned full-time in special facilities.

- Olympic type competitions available for target groups of individuals with special needs include Special Olympics (mentally retarded), Olympiad for the Physically Disabled (wheelchair bound, amputees, visually impaired), International Games for the Deaf (deaf and hard of hearing), International Spastic Games (cerebral palsied), International Games for Visually Impaired (blind and partially sighted).

- National, regional, state, and local programs and activities are also conducted for individuals with specific handicapping conditions. These include but are not limited to bowling, golf, skiing, goalball, and beep-ball for blind and/or partially sighted participants; track and field, basketball, swimming, slalom, and darchery for individuals in wheelchairs; track and field, soccer, cycling, and volleyball for persons with cerebral palsy; a full range of individual and team activities for individuals possessing all types and degrees of mental retardation.

Key considerations in this process are that individuals have opportunities to participate in integrated activities, and decisions for segregated or special activities are based on interests, wishes, and needs of participants, not administrative expedience or categorical generalizations. Motivations for interest in and use of separate programs or activities are diverse and also important considerations in this decision-making process.

Program Accessibility

A recipient of federal funds shall operate each program or activity so that the program or activity when viewed in its entirety is readily accessible to individuals with handicapping conditions. No qualified persons with handicapping conditions may be declared ineligible for participation in programs and activities solely on the basis of a handicapping condition. Rules and regulations prohibit exclusion of individuals with handicapping conditions from federally assisted programs because of architectural or other environmental barriers. (12)

Facilities

A recipient of federal funds is required to make facilities when taken as a whole accessible to individuals with handicapping conditions. As necessary, existing facilities must undergo structural changes and all new facilities must be constructed to assure accessibility and usability.

- When new gymnasia, swimming pools, playgrounds, nature trails, stadia, or other indoor and/or outdoor facilities designed for use in physical education instructional, intramural, and interscholastic/intercollegiate sport, and/or personnel preparation programs are planned and built, each must meet standards and criteria found in the American National Standards Specifications for Making Buildings Accessible to and Usable by the Physically Handicapped published by the American National Standards Institute, including...

  ...barrier free access for individuals in wheelchairs, with braces, on crutches, or with other mobility problems;

  ...visual emergency systems and markings for individuals with hearing impairments;

  ...auditory signals and systems for individuals with visual impairments; and

  ...equipment and devices which can be used by individuals regardless of type or severity of handicapping conditions.

- A program is in clear non-compliance if all gymnasia are located on upper levels thus eliminating persons in wheelchairs or with other mobility problems from using them.

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[12] Ibid. p. 22681.

- If all outdoor physical education teaching stations are inaccessible to persons in wheelchairs and to individuals with other mobility or sensory problems, this aspect of the school program is in non-compliance with Section 504.

Numbers

A recipient of federal funds may not apply limitations upon numbers or proportions of individuals with handicapping conditions who may be admitted to programs and activities.

- Identifying or limiting percentages of students with handicapping conditions who may be enrolled in personnel preparation programs would be in clear violation of the law. However, handicapping conditions may be considered in attaining affirmative action goals.

Testing

A recipient may not use any test or criterion for admission to programs and activities that have disproportionate and/or adverse effects on individuals with handicapping conditions or on any class of persons with handicapping conditions, unless the test or criterion, as used by the recipient, has been validated as a predictor of success in educational programs or activities in question. If an individual with a handicapping condition is excluded from a service, this individual cannot benefit from that service. Individuals with handicapping conditions must be able to gain entry or eligibility to services, and must be provided equally effective services and equal opportunities to benefit from such services. Criteria for entry into intramural and interscholastic/intercollegiate sport, instructional, and personnel preparation programs must not discriminate against individuals with handicapping conditions. Entrance tests or course examinations must reflect student achievements or attainment of specific educational objectives that tests purport to measure rather than impairments of students.

- Requiring a learning disabled student to diagram plays on paper when gross inversion, reversal, or transposition problems exist would be discriminatory if the same student has ability to answer verbally on tests.

- Preventing blind persons from entering physical education personnel preparation programs because of admission tests which depend on sight for successful performances would be illegal unless results of admission tests have been validated as predictors of success in teaching physical education.

- Requiring prerequisite physical and motor skills based on the rationale that they are essential for competent teaching could exclude otherwise qualified individuals from some personnel preparation programs. A direct relationship must be determined between acquiring these motor skills and teaching competencies. An institution would have to present well documented skill competencies with valid

performance measures indicating all other persons in the program have mastered the competencies. If an individual with a handicapping condition can perform at levels above others who have been admitted to the program is rejected, this would be discriminatory. Little data to date indicate casual relationships between skill performances and teaching effectiveness. Thus, non-discriminatory practices would be difficult to prove. Disqualification due to lack of motor skills based on unsubstantiated assumptions that these skills are essential prerequisites would be discriminatory.

- Excluding an individual with a handicapping condition from intramural or interscholastic/intercollegiate sport competitons because of failure to pass prerequisite examinations in academic subjects, rules and strategies of games, and physical and motor tests not related to a particular sport may unduly deprive such individuals from participation. For example, a mildly mentally retarded student may be required to achieve passing grades in academic subjects or gain units before participating in athletic competition. Exclusion from participation for such reasons would be discriminatory if the handicapping condition was reflected in academic failure. Exclusion from participation due to failure to pass prerequisite cognitive, physical, and motor tests based on unwarranted assumptions that mastery of the tests is prerequisite to participation in the sport is discriminatory. Since performance can be measured in actual playing situations, predictive tests run the risk of being discriminatory.

Auxiliary Aids and Services

A recipient of federal funds shall take such steps as necessary to ensure that no student with a handicapping condition is denied benefits of, excluded from participation in, or otherwise subjected to discrimination under any program or activity operated by that recipient because of absence of auxiliary aids for students with impaired sensory, manual, or speaking skills.

- In operating teacher education programs, colleges/universities must reasonably accommodate students with handicapping conditions by providing auxiliary aids. Auxiliary aids may include taped tests, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments; readers in libraries for students with visual impairments; classroom equipment adapted for use by students with manual impairments; and other similar services and actions. Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature. (13)

- For many individuals with handicapping conditions, accommodations with adaptive devices are all that is needed to insure safe, successful, and satisfying participation. Examples of such devices include special handle bowling balls for individuals with cerebral palsy, arthritis, missing fingers, poor coordination, low levels of hand and arm strength;

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[13] Ibid, p. 22684.

bowling ramps for persons with cerebral palsy, paraplegia, quadriplegia, and mutliple conditions; auditory sighting devices so visually impaired persons can participate in archery; swivel seats on carts for paraplegic golfers; outriggers for paraplegic and post polio skiers; paulks for double leg amputee skiers; and countless other homemade, improvised, and easily devised items according to individual interests, needs, abilities, and disabilities of participants.

Rules

Committees responsible for making and changing rules for specific sports must be sure that such rules do not discriminate against or exclude individuals from opportunities to participate solely because of handicapping conditions, and that changes and adjustments do not give individuals with handicapping conditions unfair advantages.

- Point starting guns down--rather than up--so deaf athletes can see the signal and compete more equitably in track running events, cross country, and swimming. (14)

- Allow direct physical contact by holding hands, touching elbows, using a rope or strap, or by endorsing other means so blind distance/cross country runners can take part in track/cross country/marathon races.

- Allow individuals with prosthetic devices to play soccer and wrestle so long as these devices do not create any more potential harm for opponents or self than the individual's natural limbs.

- Permit a football team consisting entirely of deaf and hearing impaired players to have offensive signals keyed with a base drum from the sidelines.

- Do not permit a single-arm amputee swimming a butterfly stroke to gain an unfair advantage over opponents without handicapping conditions by rotating the head and body so that execution is more like a free-style than a butterfly stroke; such an unfair advantage is not intended by law. This individual is not prohibited from participating since he/she can compete in freestyle events.

- Do not deny mentally retarded students opportunities to gain eligibility in interscholastic sprots because of academic scholarship rules requiring successful completion of a specific number of units, Carnegie units, or other approaches that are not consistent with these students' individualized education programs or structures of special education programs themselves.

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[14] An experiment is currently being conducted in Illinois to determine feasibility and effectiveness, of a light synchronized with the starter's gun to permit deaf and hard of hearing runners more equitible and fairer starts in track events.

Scholarships

An individual may not be denied an athletic scholarship on the basis of a handicapping condition. It would not be discriminatory if an individual was denied an athletic scholarship on the basis of comparative athletic ability.

- A student with a neurological disorder may be denied a varsity football scholarship on the basis of inability to play football.

- A deaf person could not on the basis of this condition, be denied a scholarship for a school's diving team. The individual could, however, be denied such a scholarship on the basis of comparative diving ability.

- A college or university with recognized representative wheelchair teams in track and field and/or basketball does not have to provide scholarships for these specific sports even though grants-in-aid are provided athletes competing on regular track and field or basketball teams. Section 504 does not require that scholarships be given for any given sport--this is a decision reserved for the college or university. However, a college or university cannot deny scholarships to athletes with handicapping conditions purely on the basis of such conditions when athletic scholarships are provided for a sport. Decisions not to award sholarships must be based on comparative athletic ability in the scholarship sport.

Other Factors

No qualified students with handicapping conditions shall on the basis of such conditions be excluded from participating in, denied benefits of, or otherwise subjected to discrimination because of insurance, finances, transportation, equipment, supplies, or supportive personnel.

- Finances. Interscholastic/intercollegiate teams consisting of students with handicapping conditions are to receive equivalent equipment, supplies, travel expenses, and officials, as interscholastic/intercollegiate teams for students without handicapping conditions. Finances needed for wheelchair basketball teams may exceed those of basketball teams consisting of players without handicapping conditions; however, opportunities for equally effective participation, benefits, and outcomes must be provided.

- Transportation. If a student or students have been identified as needing an interscholastic/intercollegiate program which a recipient of federal funds cannot provide, the recipient is responsible for providing appropriate transportation so that this identified need has an equally effective opportunity to be met. For example, if late busses are provided to take students home after intramural, interscholastic or other extracurricular activities, late busses must also be provided for students with handicapping conditions who require special transportation. To do otherwise is discriminatory and prevents these students from opportunities for equally effective participation.

- Financial Aid. Section 504 prohibits discrimination in administering financial assistance, and stipulates that recipients of federal funds may not provide less assistance to or limit eligibility of qualified individuals with handicapping conditions for such assistance, whether this assistance comes directly from recipient or from another entity through the recipient's sponsorship. Awards that are made under wills, trusts, or similar legal instruments in a discriminatory manner are permissible, but only if overall effects of the recipient's provisions of financial assistance are not discriminatory on the basis of handicapping conditions.

- Local education agency responsibilities. In cases where individual schools do not have enough players to form teams, local education agencies must make sure that students with handicapping conditions are afforded opportunities in extracurricular activities comparable to those offered individuals without handicapping conditions, including interscholastic and intramural sports.

  If a group of students in an individual school desires to play interscholastic wheelchair basketball, and an individual school does not have a sufficient number of players, it may combine players with those from other schools within the local education agency to form such a team.

Concluding Statement

After reading this position paper, it must be immediately clear that Section 504 has tremendous implications for physical education instructional, personnel preparation, intramural, and interscholastic/intercollegiate sport programs. It is also evident that many changes must be made in most programs to be in full compliance with Section 504 and to offer services which individuals with handicapping conditions deserve. Much has been done and is being done throughout the United States in regard to programs in these areas, but much remains to be done. That which needs to be done will not be completed in a week, a month, or a year. As progress is made, success will be satisfying. As attempts are made to implement the law fully, frustrations will be quite evident. However, discrimination, be it intentional or unconscious, regarding programs involving individuals with handicapping conditions must, and will end.

Early in the process of change, Section 504 and its implications must be understood. Once the law is understood, all programs must be evaluated and transition plans established for full compliance. Eventually, every program in the United States should be in full compliance and provide individuals with handicapping conditions those opportunities which they deserve in a free and just society.

Selected Resources

Published Materials

Basic Facts About P.L. 94-142 and Section 504 as Related to Physical Education: Selected AAHPER Periodical Reprints. American Alliance for Health, Physical Education, and Recreation. Washington, D.C.: the Alliance (1201 16th Street, N. W., 20036), 1977.

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Handbook of Employment Rights of the Handicapped: Sections 503 and 504 of the Rehabilitation Act of 1973. Anne Marie C. Hermann and Lucinda A. Walker. Washington, D.C.: Regional Rehabilitation Research, Institute on Attitudinal, Legal, and Leisure Barriers, George Washington University (20052), 1978.

The Handicapped: How to Comply With the New Laws (P.L. 94-142 and Section 504). Old Saybrook, Connecticut: Institute for Learning, Division for Institute for Management (06475), n d.

94-142 and 504: Numbers That Add Up to Educational Rights for Handicapped Children. A Guide for Parents and Advocates. Daniel Yohalem and Janet Dinsmore. Washington, D.C.: Children's Defense Fund (1520 New Hampshire Avenue, N.W., 20036), n.d.

Physical Education, Recreation, and Sports for Participants with Special Needs: Questions and Answers About P.L. 94-142 and Section 504. American Alliance for Health, Physical Education, and Recreation. Washington, D.C.: the Alliance (1201 16th Street, N.W., 20036), 1979.

Planning for Implementation of Section 504 at Colleges and Universities. Sharon Mistler. Washington, D.C.: Regional Rehabilitation Research Institute on Attitudinal, Legal, and Leisure Barriers, George Washington University (1828 L Street, N.W., Suite 704, 20036), 1978.

Questions and Answers on Regulations Implementing Section 504, Rehabilitation Act of 1973. (29 U.S.C. 706). Portland, Oregon: NASPA, Portland State University (P. O. Box 751, 97207), July 1977.

Recruitment, Admissions and Handicapped Students: A Guide for Compliance With Section 504 of the Rehabilitation Act of 1973. Martha Ross Redden, Cricket Levering, and Diane Di Quinzio. Washington, D.C.: American Association of Collegiate Registrars and Admissions Officers, American Registrars and Admissions Officers, American Council on Education. (Copies from James D. Bennett, Director, Technical Assistance Unit, Office of Program Review and Assistant, Office for Civil Rights, 330 Independence Avenue, S.W., 20201), n.d.

Section 504/P.L. 94-142. Washington, D.C.: National Association of State Directors of Special Education (1201 16th Street, N.W., 20036), n.d.

Your Responsibilities to Disabled Persons as a School or College Administrator. Washington, D.C.: Office of Civil Rights, Department of H.E.W. (20201), 1977.

Your Rights as a Disabled Person. Washington, D.C.: Office of Civil Rights, Department of H.E.W. (20201), 1977.

Key Periodicals

AMICUS. National Center for Law and the Handicapped, 211 West Washington Street, Suite 1900, South Bend, Indiana, 46601.

INSIGHT. Council for Exceptional Children, 1920 Association Drive, Reston, Virginia, 22091.

NATIONAL CENTER FOR LAW AND THE DEAF NEWSLETTERS. c/o Gallaudet College, 7th and Florida Avenue, N.E., Washington, D.C., 20002.

REPORT. National Center for a Barrier Free Environment, 7th and Florida Avenue, N.E., Washington, D.C., 20002.

FEDERAL REGISTER, 1100 L Street, N.W., Washington, D.C.

Key Organizations

American Alliance for Health, Physical Education, Recreation, and Dance
Unit on Programs for the Handicapped
1201 16th Street, N.W.
Washington, D.C., 20036

Council for Exceptional Children Federal Legislation Unit
1920 Association Drive
Reston, Virginia, 22091

National Center for Law and the Handicapped
211 West Washington Street, Suite 1900
South Bend, Indiana, 46601

Epiologue

Section 504 of the Rehabilitation Act of 1973 is the first civil rights law guaranteeing equal opportunities for more than thrity-five million disabled Americans. In language almost identical to Title VI of the Civil Rights Act of 1964 prohibiting discrimination on the basis of race, color, creed, or national origin, and Title IX of the Education Amendments of 1972 banning discrimination on the basis of sex, Congress mandated--

> No otherwise qualified handicapped individual in the United States... shall, solely by reason of his handicap be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Rules and regulations signed by Department of Health, Education, and Welfare Secretary Joseph Califano on April 28, 1977, cover every public and private, state, county, and local business and education establishment that receives funds directly or through the state from the Department of Health, Education and Welfare. Some affected programs relevant to physical education, recreation, and sports programs include school districts, mental health/mental retardation units, colleges and universities, intramural and interscholastic sport and neighborhood recreation programs.

Department of Health, Education, and Welfare's rules and regulations create rights and establsih new procedures for hastening enforcement of existing rights in physical education instructional, personnel preparation, intramural and interscholastic/intercollegiate sport programs. Direct responsibility is placed on personnel who deliver such services. Individuals with handicapping conditions must be included in these programs in such manners that they can fully participate in and share in benefits of activities supported by the federal government.

Secretary Califano described the great impact of the HEW regulations when he signed them.

> The Section 504 regulations attack the discrimination, the demeaning practices and the injustices that have applicted the nation's handicapped citizens. It reflects the recognition of Congress that most handicapped persons can live proud and productive lives, despite their disabilities. It will usher in a new era of equality for handicapped individuals in which unfair barriers to self sufficiency and decent treatment will begin to fall before the force of law. . .

In Section 504, the Congress enacted a charter of equality to help end the shameful national neglect of handicapped individuals and to translate many of their legitimate needs into legal rights. Section 504 and rules and regulations not only make it illegal to exclude individuals with handicapping conditions from any federally assisted program, but also require that individuals with handicapping conditions be given equal opportunities to participate in these programs in the most integrated settings possible. Services and benefits offered individuals with handicapping conditions must be as meaningful and effective as those provided to everyone else.

Turning rights guaranteed by Section 504 and HEW rules and regulations into realities for every disabled individual is not simple. This position paper is intended to help make these rights real by explaining in detail to individuals with handicapping conditions their rights under Section 504 relevant to physical education instructional, professional preparation, and intramural and interscholastic/intercollegiate sport programs so they can request their entitled services. This position paper is also designed to inform service providers of their program responsibilities so that planning and implementation of services can be conducted in conformance with the law.

This position paper is a product of the May 22-23, 1978, Brockport Invitational Task Force Position Statement on Implications of Section 504 of the Rehabilitation Act of 1973 as Related to Physical Education Instructional, Personnel Preparation, Intramural, and Interscholastic/Intercollegiate Sport Programs. Members of the writing staff are ready and willing to help all in implementing Section 504 and HEW rules and regulations in specific areas covered in this position paper. You are invited to join them in securing rights for every individual with a handicapping condition in the areas of physical education instructional, personnel preparation, intramural, and interscholastic/intercollegiate sport programs. You are invited to assess compliance with Section 504, to establish objectives and procedures to be in full compliance, and to operationalize non-discrimination as soon as possible.